

FEB 22 2007

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

DX/DY VOICE PROCESSING, INC., a
Arizona corporation,

No. **CV-07-059-EFS**

Plaintiff,) **COMPLAINT FOR PATENT
INFRINGEMENT**
)

JURY TRIAL DEMANDED

TELIGENCE CORPORATION, a Canadian corporation; TELIGENCE (CANADA) LTD., a Canadian corporation; TELIGENCE (US), INC., a Nevada corporation; TELIGENCE HOLDINGS INC., a Nevada corporation; ROBERT J. MADIGAN, a citizen of Canada; JOHN MADIGAN, a citizen of Canada; FIRST MEDIA GROUP, INC., a Canadian corporation; FIRST MEDIA GROUP LLC, a Delaware company; and JOHN DOES 1-100.

Defendants.)

Plaintiff Dx/Dy Voice Processing, Inc. brings its Complaint against Defendants demanding a jury trial and alleging:

**COMPLAINT FOR PATENT
INFRINGEMENT - 1**

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I. NATURE OF THE ACTION

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2 1. This is an action for patent infringement arising under the patent laws
3 of the United States, 35 U.S.C. §§ 1 *et seq.*
4

II. PARTIES AND JURISDICTION

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6 2. Plaintiff Dx/Dy Voice Processing, Inc. (“Dx/Dy”) is incorporated
7 under the laws of the State of Arizona and has its principal place of business at 28
8 West 3rd Avenue, Suite A, Spokane, Washington 99201. Dx/Dy is fully licensed
9 to conduct business in Washington State.
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12 3. The Defendants comprise two groups, one associated with Teligence
13 Corporation of Vancouver, British Columbia, and the other associated with First
14 Media Group, Inc. of Toronto, Ontario. Both groups of Defendants operate
15 telephone “chat line” services in the United States.
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18 4. The “Teligence Defendants” include four corporate entities and two
19 individuals. Teligence Corporation and Teligence (Canada) Ltd are both
20 incorporated under the laws of the Province of British Columbia and have their
21 principal places of business in Vancouver, British Columbia. Teligence (U.S.),
22 Inc. and Teligence Holdings, Inc. are both incorporated under the laws of the State
23 of Nevada and have their principal place of business in Denver, Colorado. These
24 four Teligence corporate entities are owned and operated by and for the benefit of
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1 Defendants Robert J. Madigan and John Madigan ("the Madigans") who are
2 domiciled in Vancouver, British Columbia. On information and belief, both
3 Messrs. Madigan are married individuals and all activity alleged herein was taken
4 for the benefit of themselves and their marital community and all relief sought is
5 from these individuals and their marital communities.

6 5. The Madigans and the four Teligence entities own, operate, control
7 and benefit from the family of pay-per-call telephone services seen at
8 <http://www.telelligence.net/brands/index.html>, including LiveLinks, TangoPersonals,
9 VibeLine, Interactive Male, RedHot DateLine, and FonoChat Latino ("the
10 Teligence Products.") All of the Teligence Defendants have sufficient contacts
11 with the State of Washington to subject them to personal jurisdiction. The making,
12 using, offering and selling of the Teligence Products infringe U.S. Patent No.
13 7,116,768 in the United States, including in this judicial district.
14

15 6. The "FMG Defendants" include two corporate entities. Defendant
16 First Media Group, Inc. is incorporated under the laws of the Province of Ontario
17 and has its principal place of business in Toronto, Ontario. First Media Group
18 LLC is incorporated under the laws of Delaware and has its principal place of
19 business in Toronto, Ontario. The FMG Defendants operate the family of pay-
20 per-call telephone services seen at <http://www.nightlinepersonals.com> and
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1 <http://www.questconnects.com>, among others (“the FMG Products.”) The FMG
2 Defendants have sufficient contacts with the State of Washington to subject them
3 to personal jurisdiction. The making, using, offering and selling of the FMG
4 Products infringe U.S. Patent No. 7,116,768 in the United States, including in this
5 judicial district.

7 **III. SUBJECT MATTER JURISDICTION AND VENUE**

9 7. This Court has jurisdiction over the subject matter of Dx/Dy’s
10 Complaint pursuant to 28 U.S.C. §§ 1331 and 1338(a).

11 8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§
12 1391(b), 1391(c), 1391(d), and 1400(b).

14 **IV. THE ‘768 PATENT**

16 9. Dx/Dy provides telecommunications hardware, software and services
17 to clients throughout the country, including a particular expertise in the area of
18 switches and other hardware, cabling and software to enable collect calling and
19 collect call-back.

21 10. United States Patent No. 7,116,768 (“the ‘768 Patent”) entitled
22 “Collect Callback,” was duly and legally issued by the United States Patent and
23 Trademark Office (“USPTO”) on October 3, 2006. The ‘768 Patent was published
24 as an application by the USPTO on March 31, 2005, U.S. Patent Application No.
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26 COMPLAINT FOR PATENT
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10/672,348, with substantially similar Claims to those that issued as the '768 Patent.

11. Dx/Dy owns by assignment the entire right, title and interest in the '768 Patent such that it may enforce the patent. This assignment is shown on the face of the issued patent, in Field 73. A copy of the '768 Patent is attached hereto as Exhibit A.

COUNT I
DEFENDANTS INFRINGEMENT OF THE '768
PATENT

12. Dx/Dy repeats and realleges the allegations of paragraphs 1 through 11 as though fully set forth herein.

13. The making, using, offering, and selling of the Teligence Products by the Teligence Defendants and the making, using, offering and selling of the FMG Products by the FMG Defendants infringe the ‘768 Patent directly and under the doctrine of equivalents in violation of 35 U.S.C. § 271(a).

14. The Teligence Defendants have offered sales of software and services packages (which include Collect Callback) to third-party pay-per-call telephone service operators. Any implementation and use by such purchasers of these systems which include Collect Callback would be infringing activity in violation of 35 U.S.C. § 271(a). Collect Callback is not a staple article of commerce suitable

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for non-infringing use. By providing these materials to third parties, the Teligence Defendants are contributory infringers of the ‘768 Patent in violation of 35 U.S.C. § 271(b).

15. The Madigans and the other Teligence Defendants have induced infringement of the '768 Patent by the Teligence Defendants and others in violation of 35 U.S.C. § 271(c).

16. Defendants' infringement has been deliberate, willful, intentional, and with knowledge of the existence of the '768 patent. The Teligence Defendants were aware of Dx/Dy's patent application for Collect Callback since before its publication date of March 31, 2005.

17. Dx/Dy is entitled to injunctive and compensatory relief, including attorneys' fees and costs, as well as enhanced damages pursuant to 35 U.S.C. §§ 271, 281, and 283-85.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Dx/Dy respectfully requests that this Court enter Judgment in favor of Dx/Dy and against all Defendants, and grant to Dx/Dy all of the following relief:

1. Enter judgment that Defendants have infringed and are infringing the '768 patent;

2. Enter judgment that the aforementioned infringement by Defendants has been and is willful;

3. Enter orders preliminarily and permanently enjoining Defendants, and their respective officers, agents, employees, and all others in active concert or participation with Defendants or any of them from further infringing, whether directly or indirectly, the '768 patent;

4. Award Dx/Dy its damages in an amount sufficient to compensate Dx/Dy for the Defendants' infringements of the '768 patent, together with pre-judgment and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;

5. Award enhanced damages to Dx/Dy in an amount three times the amount of compensatory damages awarded by this Court for the Defendants' willful infringements of the '768 patent, pursuant to 35 U.S.C. § 284;

6. Declare this case to be “exceptional” under 35 U.S.C. § 285, and award Dx/Dy its reasonable attorneys’ fees, expenses, and costs incurred in this action; and

7. Award Dx/Dy such other and further equitable and/or monetary relief as this Court deems just and proper.

VI. JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff

1 Dx/Dy respectfully requests a trial by jury of all issues for which a trial by jury is
2 available under applicable law.

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4 Foster Pepper PLLC

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6 Date: 2/20/2007

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9 John Ray Nelson, WSBA #16393

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11 Date: 11.20.2007

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COMPLAINT FOR PATENT
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